

United States District Court

For the Northern District of California

E-FILED 05-02-2011

NOT FOR CITATION

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

HAIPING SU,

No. C09-02838 JW (HRL)

Plaintiff,

v.

UNITED STATES OF AMERICA; NATIONAL
AERONAUTICS AND SPACE
ADMINISTRATION; CHRISTOPHER
SCOLESE; CHARLES F. BOLDEN, JR.;
SIMON PETER WORDEN; ROBERT DOLCI;
REGINALD WADDELL; and DOES 1-100,**ORDER GRANTING FBI'S MOTION TO
QUASH SUBPOENAS FOR
DEPOSITION TESTIMONY OF
SHERMAN KWOK AND PATRICK
ROSS****[Re: Docket No. 145]**

Defendants.

The Federal Bureau of Investigation (FBI) moves to quash plaintiff's subpoenas for the depositions of Agents Sherman Kwok and Patrick Ross. Plaintiff opposes the motion. The matter is deemed appropriate for determination without oral argument. Civ. L.R. 7-1(b). Upon consideration of the moving and responding papers, this court grants the motion.

Agents Kwok and Ross were involved in the investigation leading to NASA's decision to debar Su from NASA's facilities. In essence, plaintiff wants to depose them about the FBI's investigation of him, including the evidence and information it reviewed, what determinations and recommendations were made, when, and why. (See Mei Decl., Exs. 1 and 2). Plaintiff contends that he is entitled to conduct probing examinations as to the legitimacy of the FBI's investigation. But, his only claims for relief are against NASA for alleged violations of his

1 privacy rights arising out of NASA's decision to remove him from NASA's facilities. Su has
2 not managed to persuade that the testimony sought is relevant or reasonably calculated to lead
3 to the discovery of admissible evidence. FED. R. CIV. P. 26(b). This court need not address the
4 FBI's argument that the subject information comprises privileged and classified information.
5 The FBI's motion to quash is granted.

6 SO ORDERED.

7 Dated: May 2, 2011

8
9 HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE

1 5:09-cv-02838-JW Notice has been electronically mailed to:
2 James McManis jmcmanis@mcmanslaw.com, clarsen@mcmanslaw.com
3 Joseph Steven Jarreau steven.jarreau@usdoj.gov
4 Karen Seifert karen.p.seifert@usdoj.gov
5 Michael Gannon Reedy mreedy@mcmanslaw.com, sshakoori@mcmanslaw.com
6 Richard Tyler Atkinson tatkinson@mcmansfaulkner.com, eschneider@mcmanslaw.com
7 Vesper Mei vesper.mei@usdoj.gov
8 Counsel are responsible for distributing copies of this document to co-counsel who have not
9 registered for e-filing under the court's CM/ECF program.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28